IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 19470 of 2007
with
SPECIAL CIVIL APPLICATION No. 19471 of 2007
With
SPECIAL CIVIL APPLICATION No. 22369 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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YOGESHBHAI JAGJIVANDAS DOSHI & 1 - Petitioner(s)
Versus
THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR UMANG K CHOKSI for Petitioner(s) : 1 - 2.
Mr. MR MR Mengdey, Asst.GOVERNMENT PLEADER for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 02/11/2007
ORAL COMMON JUDGMENT

Rule. Shri MR Mengdey, learned AGP waives service of Rule for the respondents. In these petitions, since similar legal

issues arise, they have been heard together and are being disposed of by this common order.

2. The petitioners in respective petitions have challenged orders passed by the authorities under the Bombay Stamp Act calling upon the petitioners to deposit stamp duty short paid according to the authorities while registering documents evidencing sale of immovable properties.

3. It is not in dispute that before passing such orders, the authorities are required to issue notices under the Bombay Stamp Act and the Rules made thereunder. Insofar as these petitions are concerned, the petitioners have contended that they were never served with such notices calling upon the petitioners to state why the stamp duty should not be enhanced. There is nothing on the record to establish that such notices were sent through Registered AD nor did they have any acknowledgement duly signed by the petitioners on record.

4. Learned AGP, Shri Mengdey appearing for the State from the record of the cases submitted that as per the respondents though such notices were duly discharged at the relevant time, these notices were not sent by Registered Post AD. He stated that in some cases though notices were sent through courier, there is

nothing on record to suggest that the notices were duly served. He submitted that this may be so because the addresses supplied by the petitioners were not complete.

5. Be that as it may, the picture that emerges in these petitions is that before passing adverse orders against the petitioners enhancing the stamp duty payable on the documents registered by the petitioners, they were not served with the notices calling upon them to show cause. In view of insufficient and inconclusive evidence to show that the petitioners were duly served with notices, I find it to be appropriate and in the interests of justice to give one more chance to the petitioners to meet with the notices for enhancement of the stamp duties.

6. Under the circumstances, the orders impugned in these petitions calling upon them to pay higher stamp duty are quashed.

7. To avoid complications in future, it is further provided that the petitioners shall communicate in writing to the Deputy Stamp Collector of the District within the period of two weeks from today, their current full addresses. Upon such addresses, it will be open for the respondents to issue fresh notices, if so desired. With

these directions, the petition shall stand disposed of. Rule is made absolute with the above terms. D.S. permitted.

[Akil Kureshi, J.]

rmr.